

Adopted	Rejected
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## COMMITTEE REPORT

YES:	8
NO:	1

### MR. SPEAKER:

*Your Committee on Insurance, to which was referred Senate Bill 331, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1           Page 1, between the enacting clause and line 1, begin a new
- 2           paragraph and insert:
- 3           "SECTION 12. IC 27-4-1-4, AS AMENDED BY P.L.131-2007,
- 4           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5           UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as
- 6           unfair methods of competition and unfair and deceptive acts and
- 7           practices in the business of insurance:
- 8           (1) Making, issuing, circulating, or causing to be made, issued, or
- 9           circulated, any estimate, illustration, circular, or statement:
- 10           (A) misrepresenting the terms of any policy issued or to be
- 11           issued or the benefits or advantages promised thereby or the
- 12           dividends or share of the surplus to be received thereon;
- 13           (B) making any false or misleading statement as to the
- 14           dividends or share of surplus previously paid on similar
- 15           policies;
- 16           (C) making any misleading representation or any

- 1 misrepresentation as to the financial condition of any insurer,  
2 or as to the legal reserve system upon which any life insurer  
3 operates;
- 4 (D) using any name or title of any policy or class of policies  
5 misrepresenting the true nature thereof; or
- 6 (E) making any misrepresentation to any policyholder insured  
7 in any company for the purpose of inducing or tending to  
8 induce such policyholder to lapse, forfeit, or surrender the  
9 policyholder's insurance.
- 10 (2) Making, publishing, disseminating, circulating, or placing  
11 before the public, or causing, directly or indirectly, to be made,  
12 published, disseminated, circulated, or placed before the public,  
13 in a newspaper, magazine, or other publication, or in the form of  
14 a notice, circular, pamphlet, letter, or poster, or over any radio or  
15 television station, or in any other way, an advertisement,  
16 announcement, or statement containing any assertion,  
17 representation, or statement with respect to any person in the  
18 conduct of the person's insurance business, which is untrue,  
19 deceptive, or misleading.
- 20 (3) Making, publishing, disseminating, or circulating, directly or  
21 indirectly, or aiding, abetting, or encouraging the making,  
22 publishing, disseminating, or circulating of any oral or written  
23 statement or any pamphlet, circular, article, or literature which is  
24 false, or maliciously critical of or derogatory to the financial  
25 condition of an insurer, and which is calculated to injure any  
26 person engaged in the business of insurance.
- 27 (4) Entering into any agreement to commit, or individually or by  
28 a concerted action committing any act of boycott, coercion, or  
29 intimidation resulting or tending to result in unreasonable  
30 restraint of, or a monopoly in, the business of insurance.
- 31 (5) Filing with any supervisory or other public official, or making,  
32 publishing, disseminating, circulating, or delivering to any person,  
33 or placing before the public, or causing directly or indirectly, to  
34 be made, published, disseminated, circulated, delivered to any  
35 person, or placed before the public, any false statement of  
36 financial condition of an insurer with intent to deceive. Making  
37 any false entry in any book, report, or statement of any insurer  
38 with intent to deceive any agent or examiner lawfully appointed

1 to examine into its condition or into any of its affairs, or any  
2 public official to which such insurer is required by law to report,  
3 or which has authority by law to examine into its condition or into  
4 any of its affairs, or, with like intent, willfully omitting to make a  
5 true entry of any material fact pertaining to the business of such  
6 insurer in any book, report, or statement of such insurer.

7 (6) Issuing or delivering or permitting agents, officers, or  
8 employees to issue or deliver, agency company stock or other  
9 capital stock, or benefit certificates or shares in any common law  
10 corporation, or securities or any special or advisory board  
11 contracts or other contracts of any kind promising returns and  
12 profits as an inducement to insurance.

13 (7) Making or permitting any of the following:

14 (A) Unfair discrimination between individuals of the same  
15 class and equal expectation of life in the rates or assessments  
16 charged for any contract of life insurance or of life annuity or  
17 in the dividends or other benefits payable thereon, or in any  
18 other of the terms and conditions of such contract; however, in  
19 determining the class, consideration may be given to the  
20 nature of the risk, plan of insurance, the actual or expected  
21 expense of conducting the business, or any other relevant  
22 factor.

23 (B) Unfair discrimination between individuals of the same  
24 class involving essentially the same hazards in the amount of  
25 premium, policy fees, assessments, or rates charged or made  
26 for any policy or contract of accident or health insurance or in  
27 the benefits payable thereunder, or in any of the terms or  
28 conditions of such contract, or in any other manner whatever;  
29 however, in determining the class, consideration may be given  
30 to the nature of the risk, the plan of insurance, the actual or  
31 expected expense of conducting the business, or any other  
32 relevant factor.

33 (C) Excessive or inadequate charges for premiums, policy  
34 fees, assessments, or rates, or making or permitting any unfair  
35 discrimination between persons of the same class involving  
36 essentially the same hazards, in the amount of premiums,  
37 policy fees, assessments, or rates charged or made for:

38 (i) policies or contracts of reinsurance or joint reinsurance,

1 or abstract and title insurance;  
2 (ii) policies or contracts of insurance against loss or damage  
3 to aircraft, or against liability arising out of the ownership,  
4 maintenance, or use of any aircraft, or of vessels or craft,  
5 their cargoes, marine builders' risks, marine protection and  
6 indemnity, or other risks commonly insured under marine,  
7 as distinguished from inland marine, insurance; or  
8 (iii) policies or contracts of any other kind or kinds of  
9 insurance whatsoever.

10 However, nothing contained in clause (C) shall be construed to  
11 apply to any of the kinds of insurance referred to in clauses (A)  
12 and (B) nor to reinsurance in relation to such kinds of insurance.  
13 Nothing in clause (A), (B), or (C) shall be construed as making or  
14 permitting any excessive, inadequate, or unfairly discriminatory  
15 charge or rate or any charge or rate determined by the department  
16 or commissioner to meet the requirements of any other insurance  
17 rate regulatory law of this state.

18 (8) Except as otherwise expressly provided by law, knowingly  
19 permitting or offering to make or making any contract or policy  
20 of insurance of any kind or kinds whatsoever, including but not in  
21 limitation, life annuities, or agreement as to such contract or  
22 policy other than as plainly expressed in such contract or policy  
23 issued thereon, or paying or allowing, or giving or offering to pay,  
24 allow, or give, directly or indirectly, as inducement to such  
25 insurance, or annuity, any rebate of premiums payable on the  
26 contract, or any special favor or advantage in the dividends,  
27 savings, or other benefits thereon, or any valuable consideration  
28 or inducement whatever not specified in the contract or policy; or  
29 giving, or selling, or purchasing or offering to give, sell, or  
30 purchase as inducement to such insurance or annuity or in  
31 connection therewith, any stocks, bonds, or other securities of any  
32 insurance company or other corporation, association, limited  
33 liability company, or partnership, or any dividends, savings, or  
34 profits accrued thereon, or anything of value whatsoever not  
35 specified in the contract. Nothing in this subdivision and  
36 subdivision (7) shall be construed as including within the  
37 definition of discrimination or rebates any of the following  
38 practices:

- 1 (A) Paying bonuses to policyholders or otherwise abating their  
2 premiums in whole or in part out of surplus accumulated from  
3 nonparticipating insurance, so long as any such bonuses or  
4 abatement of premiums are fair and equitable to policyholders  
5 and for the best interests of the company and its policyholders.
- 6 (B) In the case of life insurance policies issued on the  
7 industrial debit plan, making allowance to policyholders who  
8 have continuously for a specified period made premium  
9 payments directly to an office of the insurer in an amount  
10 which fairly represents the saving in collection expense.
- 11 (C) Readjustment of the rate of premium for a group insurance  
12 policy based on the loss or expense experience thereunder, at  
13 the end of the first year or of any subsequent year of insurance  
14 thereunder, which may be made retroactive only for such  
15 policy year.
- 16 (D) Paying by an insurer or insurance producer thereof duly  
17 licensed as such under the laws of this state of money,  
18 commission, or brokerage, or giving or allowing by an insurer  
19 or such licensed insurance producer thereof anything of value,  
20 for or on account of the solicitation or negotiation of policies  
21 or other contracts of any kind or kinds, to a broker, an  
22 insurance producer, or a solicitor duly licensed under the laws  
23 of this state, but such broker, insurance producer, or solicitor  
24 receiving such consideration shall not pay, give, or allow  
25 credit for such consideration as received in whole or in part,  
26 directly or indirectly, to the insured by way of rebate.
- 27 (9) Requiring, as a condition precedent to loaning money upon the  
28 security of a mortgage upon real property, that the owner of the  
29 property to whom the money is to be loaned negotiate any policy  
30 of insurance covering such real property through a particular  
31 insurance producer or broker or brokers. However, this  
32 subdivision shall not prevent the exercise by any lender of the  
33 lender's right to approve or disapprove of the insurance company  
34 selected by the borrower to underwrite the insurance.
- 35 (10) Entering into any contract, combination in the form of a trust  
36 or otherwise, or conspiracy in restraint of commerce in the  
37 business of insurance.
- 38 (11) Monopolizing or attempting to monopolize or combining or

1 conspiring with any other person or persons to monopolize any  
2 part of commerce in the business of insurance. However,  
3 participation as a member, director, or officer in the activities of  
4 any nonprofit organization of insurance producers or other  
5 workers in the insurance business shall not be interpreted, in  
6 itself, to constitute a combination in restraint of trade or as  
7 combining to create a monopoly as provided in this subdivision  
8 and subdivision (10). The enumeration in this chapter of specific  
9 unfair methods of competition and unfair or deceptive acts and  
10 practices in the business of insurance is not exclusive or  
11 restrictive or intended to limit the powers of the commissioner or  
12 department or of any court of review under section 8 of this  
13 chapter.

14 (12) Requiring as a condition precedent to the sale of real or  
15 personal property under any contract of sale, conditional sales  
16 contract, or other similar instrument or upon the security of a  
17 chattel mortgage, that the buyer of such property negotiate any  
18 policy of insurance covering such property through a particular  
19 insurance company, insurance producer, or broker or brokers.  
20 However, this subdivision shall not prevent the exercise by any  
21 seller of such property or the one making a loan thereon of the  
22 right to approve or disapprove of the insurance company selected  
23 by the buyer to underwrite the insurance.

24 (13) Issuing, offering, or participating in a plan to issue or offer,  
25 any policy or certificate of insurance of any kind or character as  
26 an inducement to the purchase of any property, real, personal, or  
27 mixed, or services of any kind, where a charge to the insured is  
28 not made for and on account of such policy or certificate of  
29 insurance. However, this subdivision shall not apply to any of the  
30 following:

31 (A) Insurance issued to credit unions or members of credit  
32 unions in connection with the purchase of shares in such credit  
33 unions.

34 (B) Insurance employed as a means of guaranteeing the  
35 performance of goods and designed to benefit the purchasers  
36 or users of such goods.

37 (C) Title insurance.

38 (D) Insurance written in connection with an indebtedness and

- 1 intended as a means of repaying such indebtedness in the  
2 event of the death or disability of the insured.
- 3 (E) Insurance provided by or through motorists service clubs  
4 or associations.
- 5 (F) Insurance that is provided to the purchaser or holder of an  
6 air transportation ticket and that:
- 7 (i) insures against death or nonfatal injury that occurs during  
8 the flight to which the ticket relates;
- 9 (ii) insures against personal injury or property damage that  
10 occurs during travel to or from the airport in a common  
11 carrier immediately before or after the flight;
- 12 (iii) insures against baggage loss during the flight to which  
13 the ticket relates; or
- 14 (iv) insures against a flight cancellation to which the ticket  
15 relates.
- 16 (14) Refusing, because of the for-profit status of a hospital or  
17 medical facility, to make payments otherwise required to be made  
18 under a contract or policy of insurance for charges incurred by an  
19 insured in such a for-profit hospital or other for-profit medical  
20 facility licensed by the state department of health.
- 21 (15) Refusing to insure an individual, refusing to continue to issue  
22 insurance to an individual, limiting the amount, extent, or kind of  
23 coverage available to an individual, or charging an individual a  
24 different rate for the same coverage, solely because of that  
25 individual's blindness or partial blindness, except where the  
26 refusal, limitation, or rate differential is based on sound actuarial  
27 principles or is related to actual or reasonably anticipated  
28 experience.
- 29 (16) Committing or performing, with such frequency as to  
30 indicate a general practice, unfair claim settlement practices (as  
31 defined in section 4.5 of this chapter).
- 32 (17) Between policy renewal dates, unilaterally canceling an  
33 individual's coverage under an individual or group health  
34 insurance policy solely because of the individual's medical or  
35 physical condition.
- 36 (18) Using a policy form or rider that would permit a cancellation  
37 of coverage as described in subdivision (17).
- 38 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1

- 1 concerning motor vehicle insurance rates.
- 2 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 3 to interest rate guarantees.
- 4 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 5 coverage for victims of abuse.
- 6 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 7 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 8 insurance producers.
- 9 (24) Violating IC 27-1-38 concerning depository institutions.
- 10 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 11 the resolution of an appealed grievance decision.
- 12 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or
- 13 IC 27-8-5-19.2.
- 14 (27) Violating IC 27-2-21 concerning use of credit information.
- 15 (28) Violating IC 27-4-9-3 concerning recommendations to
- 16 consumers.
- 17 (29) Engaging in dishonest or predatory insurance practices in
- 18 marketing or sales of insurance to members of the United States
- 19 Armed Forces as:
- 20 (A) described in the federal Military Personnel Financial
- 21 Services Protection Act, P.L.109-290; or
- 22 (B) defined in rules adopted under subsection (b).
- 23 **(30) Violating IC 27-8-11-10, IC 27-8-11.1, or IC 27-13-15-5**
- 24 **concerning dialysis treatment.**
- 25 (b) Except with respect to federal insurance programs under
- 26 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
- 27 commissioner may, consistent with the federal Military Personnel
- 28 Financial Services Protection Act (P.L.109-290), adopt rules under
- 29 IC 4-22-2 to:
- 30 (1) define; and
- 31 (2) while the members are on a United States military installation
- 32 or elsewhere in Indiana, protect members of the United States
- 33 Armed Forces from;
- 34 dishonest or predatory insurance practices."
- 35 Page 1, line 15, delete "is a:" and insert "**is:**".
- 36 Page 1, line 16, after "(A)" insert "**a**".
- 37 Page 1, line 16, after "child" insert "**of the policyholder or**
- 38 **certificate holder**".



- 1 Page 2, line 1, delete "child" and insert "**an individual**".
- 2 Page 2, line 5, delete "dependent's" and insert "**individual's**".
- 3 Page 2, line 36, delete "policy holder," and insert "**policyholder,**".
- 4 Page 3, line 1, delete "the policyholder" and insert "**the:**
- 5 **(i) policyholder;**".
- 6 Page 3, line 1, after "or" begin a new line triple block indented and
- 7 insert:
- 8 **"(ii) policyholder's"**.
- 9 Page 3, line 1, after "spouse" insert ";
- 10 Page 3, line 1, beginning with "until" begin a new line double block
- 11 indented.
- 12 Page 11, between lines 14 and 15, begin a new paragraph and insert:
- 13 "SECTION 7. IC 27-8-5-29 IS ADDED TO THE INDIANA CODE
- 14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 15 1, 2008]: **Sec. 29. An insurer shall, for purposes of coverage of a**
- 16 **dependent of a policyholder or certificate holder under this**
- 17 **chapter, do all of the following:**
- 18 **(1) Provide to each policyholder or certificate holder at the**
- 19 **time of application, amendment, or renewal of a policy of**
- 20 **accident and sickness insurance written notice that:**
- 21 **(A) is provided in a document that is separate from any**
- 22 **other document provided to the policyholder or certificate**
- 23 **holder; and**
- 24 **(B) clearly explains:**
- 25 **(i) that a dependent of the policyholder or certificate**
- 26 **holder will be covered upon the request of the**
- 27 **policyholder or certificate holder; and**
- 28 **(ii) the manner and form in which the policyholder or**
- 29 **certificate holder must request the coverage.**
- 30 **(2) Allow at least thirty (30) days after a policyholder or**
- 31 **certificate holder receives the notice required by subdivision**
- 32 **(1) for the policyholder or certificate holder to make a request**
- 33 **for the coverage.**
- 34 **(3) If:**
- 35 **(A) the dependent's coverage was previously terminated**
- 36 **due to the dependent's age; and**
- 37 **(B) the dependent is not yet twenty-four (24) years of age;**
- 38 **allow the dependent to re-enroll for coverage under the**

1 policyholder's or certificate holder's policy or certificate.

2 (4) Comply with the federal Health Insurance Portability and  
3 Accountability Act of 1996 (P.L. 104-191) concerning  
4 exclusions or limitations of coverage related to a disease or  
5 physical condition of the dependent that exists before  
6 re-enrollment under subdivision (3).

7 SECTION 8. IC 27-8-11-10 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
9 UPON PASSAGE]: **Sec. 10. (a) The definitions in IC 27-8-11.1 apply**  
10 **throughout this section.**

11 (b) An agreement entered into under section 3 of this chapter  
12 after April 30, 2008, must provide that if the insurer fails to pay, as  
13 specified by the agreement, for health care services rendered at a  
14 network dialysis facility, the insured is not liable for any sums  
15 owed by the insurer.

16 SECTION 9. IC 27-8-11.1 IS ADDED TO THE INDIANA CODE  
17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
18 UPON PASSAGE]:

19 **Chapter 11.1. Dialysis Treatment**

20 **Sec. 1. Except as provided in this chapter, the definitions in**  
21 **IC 27-8-11-1 apply throughout this chapter.**

22 **Sec. 2. As used in this chapter, "dialysis facility" means an**  
23 **outpatient facility in Indiana at which a dialysis treatment**  
24 **provider renders dialysis treatment.**

25 **Sec. 3. As used in this chapter, "insured" refers only to an**  
26 **insured who requires dialysis treatment.**

27 **Sec. 4. As used in this chapter, "insurer" includes the following:**

28 (1) An administrator licensed under IC 27-1-25.

29 (2) An agent of an insurer.

30 **Sec. 5. As used in this chapter, "network" refers to a group of**  
31 **providers, each of which has:**

32 (1) individually; or

33 (2) as a member of a group;

34 entered into an agreement with a particular insurer under  
35 IC 27-8-11-3.

36 **Sec. 6. As used in this chapter, "network dialysis facility" means**  
37 **a dialysis facility that has entered into an agreement with a**  
38 **particular insurer under IC 27-8-11-3.**

1       **Sec. 7. As used in this chapter, "out of network dialysis facility"**  
 2       **means a dialysis facility that has not entered into an agreement**  
 3       **with a particular insurer under IC 27-8-11-3.**

4       **Sec. 8. As used in this chapter, "policy of accident and sickness**  
 5       **insurance" has the meaning set forth in IC 27-8-5-1. The term does**  
 6       **not include the following:**

7               **(1) Accident-only, credit, dental, vision, Medicare supplement,**  
 8               **long term care, or disability income insurance.**

9               **(2) Coverage issued as a supplement to liability insurance.**

10              **(3) Worker's compensation or similar insurance.**

11              **(4) Automobile medical payment insurance.**

12              **(5) A specified disease policy issued as an individual policy.**

13              **(6) A limited benefit health insurance policy issued as an**  
 14              **individual policy.**

15              **(7) A short term insurance plan that:**

16                      **(A) may not be renewed; and**

17                      **(B) has a duration of not more than six (6) months.**

18              **(8) A policy that provides a stipulated daily, weekly, or**  
 19              **monthly payment to an insured during hospital confinement,**  
 20              **without regard to the actual expense of the confinement.**

21       **Sec. 9. To the extent that IC 27-8-11-4.5(c) and IC 27-8-11-4.5(d)**  
 22       **conflict with the requirements of this chapter, IC 27-8-11-4.5(c)**  
 23       **and IC 27-8-11-4.5(d) do not apply with respect to the**  
 24       **requirements of this chapter.**

25       **Sec. 10. A policy of accident and sickness insurance must**  
 26       **provide coverage for dialysis treatment regardless of whether an**  
 27       **insured obtains dialysis treatment from a network dialysis facility**  
 28       **or an out of network dialysis facility.**

29       **Sec. 11. An insurer that uses a network shall establish a**  
 30       **payment rate for a health care service rendered by a dialysis**  
 31       **treatment provider at an out of network dialysis facility:**

32               **(1) in consultation with the dialysis treatment provider; and**

33               **(2) based on the following:**

34                      **(A) The type of health care service rendered.**

35                      **(B) The fees usually charged by the dialysis treatment**  
 36                      **provider.**

37                      **(C) The prevailing rate paid to a dialysis treatment**  
 38                      **provider by insurers in the same geographic area during**

1           the preceding twelve (12) months.

2           **Sec. 12. In establishing a payment rate under section 11 of this**  
 3 **chapter, an insurer shall:**

4           (1) not consider Medicaid and Medicare payment rates; and  
 5           (2) establish the payment rate at an amount equal to not less  
 6           than the greatest of the following payment rates paid by the  
 7           insurer during the previous twelve (12) months:

8           (A) The highest payment rate paid to the dialysis treatment  
 9           provider for health care services rendered at a network  
 10          dialysis facility.

11          (B) The highest payment rate paid to the dialysis treatment  
 12          provider for health care services rendered at an out of  
 13          network dialysis facility.

14          (C) The highest payment rate paid to any dialysis  
 15          treatment provider for health care services rendered at a  
 16          network dialysis facility.

17          **Sec. 13. An insurer may not do any of the following at any time**  
 18 **after an insured elects coverage under a policy of accident and**  
 19 **sickness insurance:**

20          (1) Restrict benefits or increase costs to the insured in relation  
 21          to dialysis treatment, including the insured's out-of-pocket  
 22          expenses.

23          (2) Change coverage or benefits in any way that would affect  
 24          dialysis treatment provided at an out of network dialysis  
 25          facility.

26          **Sec. 14. An insurer shall not do the following:**

27          (1) Make changes in coverage under a policy of accident and  
 28          sickness in an attempt to cause an insured to elect Medicare  
 29          as the insured's primary coverage.

30          (2) Require an insured, as a condition of coverage, to travel  
 31          more than fifteen (15) miles or for longer than thirty (30)  
 32          minutes from the insured's home to obtain dialysis treatment,  
 33          regardless of whether the insured chooses to receive dialysis  
 34          treatment at a network dialysis facility or an out of network  
 35          dialysis facility.

36          **Sec. 15. An insurer shall do the following:**

37          (1) Make all claim payments for health care services provided  
 38          by a dialysis treatment provider payable only to the dialysis

1 treatment provider and not to the insured, regardless of  
 2 whether the health care services are rendered in a network  
 3 dialysis facility or an out of network dialysis facility.

4 (2) File with the department, not later than December 31 of  
 5 each year, an annual evaluation of the following:

6 (A) Whether the insurer's network of all dialysis treatment  
 7 providers is sufficient to provide health care services to  
 8 insureds covered under a policy of accident and sickness  
 9 insurance issued by the insurer.

10 (B) A detailed analysis of whether the requirements of  
 11 section 14(2) of this chapter are reflected in the actual  
 12 distance and travel time required for insureds to obtain  
 13 dialysis treatment.

14 (3) Maintain a network that at all times includes not less than  
 15 fifty percent (50%) of the dialysis facilities in the geographic  
 16 area in which health care services are provided by the  
 17 network.

18 Sec. 16. The commissioner shall, not more than thirty (30) days  
 19 after receiving a filing under section 15(2) of this chapter, approve  
 20 the filing or make recommendations for changes to the network.

21 Sec. 17. The department may adopt rules under IC 4-22-2 to  
 22 implement this section."

23 Page 11, line 19, delete "is a:" and insert "is:".

24 Page 11, line 20, after "(A)" insert "a".

25 Page 11, line 20, after "child" insert "of the subscriber".

26 Page 11, line 22, delete "child" and insert "an individual".

27 Page 11, line 22, delete "," and insert "or who is a".

28 Page 11, line 23, after "relative" insert "of the subscriber and".

29 Page 11, line 26, delete "is an Indiana resident;" and insert "resides  
 30 with the subscriber at least six (6) months of the year, with  
 31 exceptions for divorce, separation, or temporary absences,  
 32 including absences for illness, education, business, vacation, or  
 33 military service;".

34 Page 11, between lines 33 and 34, begin a new paragraph and insert:

35 "SECTION 11. IC 27-13-1-11.6 IS ADDED TO THE INDIANA  
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 37 [EFFECTIVE UPON PASSAGE]: Sec. 11.6. "Dialysis facility"  
 38 means an outpatient facility in Indiana at which a dialysis

1 treatment provider renders dialysis treatment."

2 Page 12, between lines 31 and 32, begin a new paragraph and insert:

3 "(c) A health maintenance organization shall, for purposes of  
4 coverage of a dependent of a subscriber as required by subsection  
5 (a)(26), do all of the following:

6 (1) Provide to each subscriber at the time of application,  
7 amendment, or renewal of a contract referred to in section 1  
8 of this chapter written notice that:

9 (A) is provided in a document that is separate from any  
10 other document provided to the subscriber; and

11 (B) clearly explains:

12 (i) that a dependent of the subscriber will be covered  
13 upon the request of the subscriber; and

14 (ii) the manner and form in which the subscriber must  
15 request the coverage.

16 (2) Allow at least thirty (30) days after a subscriber receives  
17 the notice required by subdivision (1) for the subscriber to  
18 make a request for the coverage.

19 (3) If:

20 (A) the dependent's coverage was previously terminated  
21 due to the dependent's age; and

22 (B) the dependent is not yet twenty-four (24) years of age;  
23 allow the dependent to re-enroll for coverage under the  
24 subscriber's individual contract or group contract.

25 (4) Comply with the federal Health Insurance Portability and  
26 Accountability Act of 1996 (P.L. 104-191) concerning  
27 exclusions or limitations of coverage related to a disease or  
28 physical condition of the dependent that exists before  
29 re-enrollment under subdivision (3).

30 SECTION 13. IC 27-13-15-5 IS ADDED TO THE INDIANA  
31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
32 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Notwithstanding  
33 IC 27-13-1-12, as used in this section, "enrollee" refers only to an  
34 enrollee who requires dialysis treatment.

35 (b) As used in this section, "health maintenance organization"  
36 includes the following:

37 (1) A limited service health maintenance organization.

38 (2) An agent of a health maintenance organization or a limited

1 service health maintenance organization.

2 (c) To the extent that IC 27-13-15-1(b) and IC 27-13-15-1(c)  
3 conflict with the requirements of this section, IC 27-13-15-1(b) and  
4 IC 27-13-15-1(c) do not apply with respect to the requirements of  
5 this section.

6 (d) An individual contract or a group contract must provide  
7 coverage for dialysis treatment regardless of whether the dialysis  
8 facility from which an enrollee obtains dialysis treatment is a  
9 participating provider.

10 (e) A health maintenance organization shall establish a payment  
11 rate for a health care service rendered by a dialysis treatment  
12 provider at a dialysis facility that is not a participating provider:

13 (1) in consultation with the dialysis treatment provider; and

14 (2) based on the following:

15 (A) The type of health care service rendered.

16 (B) The fees usually charged by the dialysis treatment  
17 provider.

18 (C) The prevailing rate paid to a dialysis treatment  
19 provider by health maintenance organizations in the same  
20 geographic area during the preceding twelve (12) months.

21 (f) In establishing a payment rate under subsection (e), a health  
22 maintenance organization shall:

23 (1) not consider Medicaid and Medicare payment rates; and

24 (2) establish the payment rate at an amount equal to not less  
25 than the greatest of the following payment rates paid by the  
26 health maintenance organization during the previous twelve  
27 (12) months:

28 (A) The highest payment rate paid to the dialysis treatment  
29 provider for health care services rendered at a dialysis  
30 facility that is a participating provider.

31 (B) The highest payment rate paid to the dialysis treatment  
32 provider for health care services rendered at a dialysis  
33 facility that is not a participating provider.

34 (C) The highest payment rate paid to any dialysis  
35 treatment provider for health care services rendered at a  
36 dialysis facility that is a participating provider.

37 (g) A health maintenance organization may not do any of the  
38 following at any time after an enrollee elects coverage under an

1 individual contract or a group contract:

2 (1) Restrict benefits or increase costs to the enrollee in  
3 relation to dialysis treatment, including the enrollee's  
4 out-of-pocket expenses.

5 (2) Change coverage or benefits in any way that would affect  
6 dialysis treatment rendered at a dialysis facility that is not a  
7 participating provider.

8 (h) A health maintenance organization shall not do the  
9 following:

10 (1) Make changes in coverage under an individual contract or  
11 a group contract in an attempt to cause an enrollee to elect  
12 Medicare as the enrollee's primary coverage.

13 (2) Require an enrollee, as a condition of coverage, to travel  
14 more than fifteen (15) miles or for longer than thirty (30)  
15 minutes from the enrollee's home to obtain dialysis treatment,  
16 regardless of whether the enrollee chooses to receive dialysis  
17 treatment at a dialysis facility that is a participating provider  
18 or a dialysis facility that is not a participating provider.

19 (i) A health maintenance organization shall do the following:

20 (1) Make all claim payments for health care services provided  
21 by a dialysis treatment provider payable only to the dialysis  
22 treatment provider and not to the enrollee, regardless of  
23 whether the health care services are provided in a dialysis  
24 facility that is a participating provider or a dialysis facility  
25 that is not a participating provider.

26 (2) File with the department, not later than December 31 of  
27 each year, an annual evaluation of the following:

28 (A) Whether the health maintenance organization's  
29 network of all dialysis treatment providers is sufficient to  
30 provide health care services to enrollees covered under an  
31 individual contract or a group contract entered into by the  
32 health maintenance organization.

33 (B) A detailed analysis of whether the requirements of  
34 subsection (h)(2) are reflected in the actual distance and  
35 travel time required for enrollees to obtain dialysis  
36 treatment.

37 (3) Maintain a participating provider network that at all times  
38 includes not less than fifty percent (50%) of the dialysis



1 facilities in the health maintenance organization's service  
2 area.

3 (j) The commissioner shall, not more than thirty (30) days after  
4 receiving a filing under subsection (i)(2), approve the filing or  
5 make recommendations for changes to the network.

6 (k) The department may adopt rules under IC 4-22-2 to  
7 implement this section."

8 Page 12, after line 40, begin a new paragraph and insert:

9 "SECTION 15. **An emergency is declared for this act.**".

10 Renumber all SECTIONS consecutively.

(Reference is to SB 331 as reprinted January 29, 2008.)

**and when so amended that said bill do pass.**

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Representative Fry